

THE
REVISED STATUTES

OF
ONTARIO 1887,

BEING A

CONSOLIDATION OF THE REVISED STATUTES OF ONTARIO,
1877, WITH THE SUBSEQUENT PUBLIC
GENERAL ACTS OF THE

LEGISLATURE OF ONTARIO.

VOL. I.



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CHAPTER 131.

An Act respecting the Solemnization of Marriages.

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows :—

1. The ministers and clergymen of every church and religious denomination duly ordained or appointed according to the rites and ceremonies of the churches or denominations to which they respectively belong, and resident in Ontario, may, by virtue of such ordination or appointment, and according to the rites and usages of such churches or denominations respectively, solemnize the ceremony of marriage between any two persons not under a legal disqualification to contract such marriage. R. S. O. 1877, c. 124, s. 1.

Minister of
any denomin-
ation may so-
lemnize mar-
riage.

No minister to solemnize marriage unless authorized by license or certificate or after publication of banns.

2. No minister or clergyman shall celebrate the ceremony of marriage between any two persons, unless duly authorized so to do by license under the hand and seal of the Lieutenant-Governor, or his Deputy duly authorized in that behalf, or by a certificate under this Act, or unless the intention of the two persons to intermarry has been proclaimed once, openly, and in an audible voice, either in the church, chapel or meeting-house in which one of the parties has been in the habit of attending worship, or in some church, chapel, meeting-house, or place of public worship of the congregation or religious community with which the minister or clergyman who performs the ceremony is connected, in the local municipality, parish, circuit or pastoral charge, where one of the parties has, for the space of fifteen days immediately preceding, had his or her usual place of abode; such proclamation to be on a Sunday, immediately before the service begins, or immediately after it ends, or at some intermediate part of the service. R. S. O. 1877, c. 124, s. 2. See Cap. 12, s. 2.

Certificate instead of license.

3. A certificate in the form given in Schedule A or Schedule B to this Act (according to the circumstances of the case) may at the option of the applicant, be substituted for a marriage license; and such certificate shall have the same legal effect as a license. R. S. O. 1877, c. 124, s. 3.

Licenses and certificates to be issued by Prov. Sec.

4. Such licenses or certificates shall be issued from the office of the Provincial Secretary, and shall be furnished to persons requiring the same by such persons as the Lieutenant-Governor in Council may name for that purpose. R. S. O. 1877 c. 124, s. 4.

Licenses signed by official persons valid notwithstanding their offices vacated.

5. Every license executed under the hand and seal of the Lieutenant-Governor, or his Deputy duly authorized in that behalf, and every certificate signed by the Provincial Secretary, or Assistant Provincial Secretary, for the purpose of solemnizing a marriage, shall be and remain valid, notwithstanding that the Lieutenant-Governor or Deputy, or Provincial Secretary, or Assistant Provincial Secretary has ceased to hold office before the time of the issue of the license or certificate. R. S. O. 1877, c. 124, s. 5. See Cap. 12, s. 2.

Unauthorized persons issuing licenses to be subject to a fine.

6. If any person issues any license or certificate for the solemnization of marriage without being authorized by the Lieutenant-Governor in Council in that behalf, unless under the authority in the next section contained, he shall forfeit to Her Majesty the sum of \$100 for every license or certificate so issued. R. S. O. 1877, c. 124, s. 6.

Deputy issuers may be appointed.

7.—(1) Any issuer of marriage licenses or certificates may, with the approval, in writing, of the mayor or reeve of the city, town, township or incorporated village wherein he resides, from time to time, when prevented from acting by illness or

unavoidable accident, or where his temporary absence is contemplated, appoint, by writing under his hand, a deputy to act for him.

(2) The said deputy shall, while so acting at the residence or office or place of business of the said issuer for whom the deputy acts possess the powers and privileges (as to administering necessary oaths and otherwise) of the issuer appointing him. Powers.

(3) The issuer shall, upon appointing a deputy, forthwith transmit to the Provincial Secretary a notice of the appointment, and of the cause thereof, and of the name and official position of the person by whom the appointment has been approved, and the Lieutenant-Governor may at any time annul the appointment. Appointment of Deputy to be certified to Prov. Sec.

(4) In case it is necessary on account of illness, unavoidable accident, or contemplated temporary absence of an issuer of marriage licenses, to appoint a deputy, and there is no mayor or reeve to give the consent required by the provisions of sub-section 1 of this section, such issuer of marriage licenses may, in the manner in other respects required by said sub-section, but without such consent, appoint such deputy; and the licenses or certificates issued by such deputy shall be deemed to authorize the solemnization of marriages at the same places as licenses or certificates issued by the principal for whom such deputy acts; and no irregularity in the appointment of a deputy issuer shall affect the validity of a license or certificate by him issued. Where no Mayor, etc. R. S. O. 1877, c. 124, s. 7.

8. Every deputy so appointed shall sign each license and certificate issued by him, with the name of his principal as well as his own name, in the following manner—"A. B., *Issuer of Marriage Licenses, per C. D., Deputy Issuer*," or to the like effect; but no irregularity in the issue of a license or certificate issued by an issuer or deputy issuer to any person or persons obtaining the same, or acting thereon in good faith, shall invalidate a marriage solemnized in pursuance thereof. How Deputies to sign licenses. R. S. O. 1877, c. 124, s. 8.

9. Every issuer of licenses or certificates aforesaid, or any other person having unissued licenses or certificates in his possession, power, custody or control, shall whenever required so to do, transmit to the Provincial Secretary every such license or certificate; and the property in all unissued licenses and certificates shall be and remain in Her Majesty. Unissued licenses to be returned when required. R. S. O. 1877, c. 124, s. 9.

10. All expenses incident to providing licenses and certificates, shall be paid by the issuer of the licenses and certificates. Expense of providing licenses. R. S. O. 1877, c. 124, s. 10.

Affidavit of party before license or certificate is granted.

11.—(1) Before any license or certificate is granted by any issuer or deputy issuer, one of the parties to the intended marriage shall personally make an affidavit which shall state

- (a) In what county or district it is intended that the marriage shall be solemnized, and in what town, village or place in the county or district, and
- (b) That he or she believes that there is no affinity, consanguinity, precontract, or other lawful cause, or legal impediment, to bar or hinder the solemnization of the marriage;
- (c) That one of the parties has for the space of fifteen days immediately preceding the issue of the license or certificate had his or her usual place of abode within the county or judicial district in which (for either municipal or judicial purposes) the local municipality in which the marriage is to be solemnized lies;

Or (if the county or district in which it is intended that the marriage shall be solemnized is not that in which either of the parties has, for the space of fifteen days immediately preceding the issue of the license or certificate, had his or her usual place of abode), that the reason of procuring the marriage to be solemnized in such place is not in order to evade due publicity or for any other improper purpose.

(2) In case either of the parties, not being a widower or widow, is under the age of twenty-one years, the affidavit shall further state that the consent of the person whose consent to the marriage is required by law has been obtained thereto.

(3) If there is no person having authority to give such consent then, upon oath made to that effect by the party requiring the license or certificate, it shall be lawful to grant the license or certificate notwithstanding the want of any such consent.

(4) The affidavit may be in the form set forth in Schedule C to this Act, and may be made before the issuer of licenses or his deputy. R. S. O. 1877, c. 124, s. 11.

Issuer having personal knowledge or reason to suspect that affidavit is untrue.

12. In case the person having authority to issue the license or certificate has personal knowledge that the facts are not as section 11 of this Act requires, he shall not issue the license or certificate; and if he has any reason to believe or suspect that the facts are not as aforesaid, he shall, before issuing the license or certificate, require further evidence to his satisfaction in addition to the said affidavit or deposition. R. S. O. 1877, c. 124, s. 12.

Persons whose consent to marriage of a minor is to be obtained.

13. The father, if living, of any party under twenty-one years of age (not being a widower or widow), or if the father is dead the guardian or guardians of the person of the party so under age, lawfully appointed, or one of the guardians, if there

are more than one ; or in case there is no such guardian, then the mother of the minor, if the mother is unmarried, shall have authority to give consent to the marriage. R. S. O. 1877, c. 124, s. 13.

14. No fee shall be payable for any license or certificate, except the sum of \$2, which the issuer of the license or certificate shall be entitled to retain for his own use ; but the Lieutenant-Governor in Council may from time to time reduce, the sum so payable. R. S. O. 1877, c. 124, s. 14.

15. It shall not be a valid objection to the legality of a marriage that the same was not solemnized in a consecrated church or chapel, or within any particular hours. R. S. O. 1877, c. 124, s. 15.

No valid objection that marriage was not solemnized in a church, etc.

16. Every clergyman or minister, who celebrates a marriage, shall, if required at the time of the marriage by either of the parties thereto, give a certificate of the marriage under his hand, specifying the names of the persons married, the time of the marriage, and the names of two or more persons who witnessed it, and specifying also whether the marriage was solemnized pursuant to license or certificate under this Act, or after publication of banns ; and the clergyman or minister may demand twenty-five cents for the certificate given by him from the person requiring it. R. S. O. 1877, c. 124, s. 16.

Ministers to give certificate if required.

Fee for certificate.

17. Every clergyman or minister shall, immediately after he has solemnized a marriage, enter in a book, to be kept by him for the purpose, a true record of the marriage ; which record shall specify all the particulars, given in Schedule B to *The Act respecting the Registration of Births, Marriages and Deaths*. R. S. O. 1877, c. 124, s. 17.

Ministers to enter marriages in a book, etc. Form of record. Rev. Stat. c. 40.

18. The Clerk of the Peace of every county shall, at the expense of the county from time to time on demand, furnish all clergymen or ministers with the books to be kept ; and such books shall have columns and headings printed on every page according to the form of said Schedule B ; and the books shall be of such size and form as to admit of the necessary entries being conveniently made therein. R. S. O. 1877, c. 124, s. 18.

Clerks of the Peace to furnish books and printed forms at the expense of the County.

19. The book by whomsoever furnished shall be the property of the church or denomination to which the clergyman or minister, clerk or secretary belongs at the time of the first marriage which he records therein. R. S. O. 1877, c. 124, s. 19.

Said books, etc., to be property of the church to which clergyman belongs.

20. Every marriage duly solemnized between members of the Religious Society of Friends, commonly called Quakers, according to the rites and usages thereof, shall be valid ; and all the duties imposed by this Act, or by *The Act respecting the Registration of Births, Marriages and Deaths*, upon a minister

Quakers' marriages declared valid.

Rev. Stat. c. 40.

and clergyman, shall with regard to such marriage, be performed by the clerk or secretary of the Society, or of the meeting at which the marriage is solemnized. R. S. O. 1877, c. 124, s. 20.

Marriages of
"Disciples of
Christ."

21.—(1) This Act shall be deemed to apply to the churches or congregations of religious people commonly called or known congregationally as "Congregations of God," or of Christ, and individually as "Disciples of Christ;" and any elder, evangelist or missionary, for the time being, of any such church or congregation, who, from time to time is chosen by any such congregation, for the purpose of the solemnization of marriages, shall be deemed to have, for the time being, the authority of a minister or a clergyman under this Act, and within the meaning thereof. 46 V. c. 11, s. 2.

(2) All the duties imposed upon and rights given to ministers and clergymen by this Act, or by *The Act respecting the Registration of Births, Marriages and Deaths*, are hereby imposed upon and given to such elders, evangelists, or missionaries, as aforesaid. 46 V. c. 11, s. 3.

License to protect minister from damages where he is unaware of the impediment.

22. No minister who performs a marriage ceremony after banns published, or after a license or a certificate under this Act issued, shall be subject to any action or liability for damages or otherwise by reason of there having been any legal impediment to the marriage, unless, at the time when he performed the ceremony, he was aware of the impediment. R. S. O. 1877, c. 124, s. 21.

SCHEDULE A.

(Section 3.)

FORM OF CERTIFICATE BEFORE MARRIAGE WITHOUT BANNS, WHERE ONE OF THE PARTIES HAS RESIDED FOR FIFTEEN DAYS NEXT PRECEDING THE ISSUE OF THE CERTIFICATE IN THE COUNTY.

THESE are to certify that *A. B.* of _____ and *C. D.* of _____ being minded, as it is said, to enter into the contract of marriage, and being desirous of having the same duly solemnized, the said *A. B.* (or *C. D.*) has made oath, as required by law, that he (or she) believes that there is no affinity, consanguinity, precontract, or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage, and that said *A. B.* or *C. D.* (or both, as the case may be), has, (or have) had his (or her, or their) usual place of abode, for the space of fifteen days last past, within the City (County or District) of _____ namely, in the Township (Town or Village) of _____ in the said County (or District) of _____ and that the said *A. B.* and *C. D.* are of the full age of twenty-one years. [Or that *A. B.* or *C. D.* is a widower or widow; or is under the age of twenty-one years, and that the consent of *E. F.*, whose consent to said

marriage is required by law, has been obtained ; or that the father of the said (*party under age*) is dead, no guardian of the person of said (*party*) has been appointed, and the mother of said (*party*) is dead (*or married*), and there is no person having authority to give consent to said marriage (*as the case may be*).]

And these are therefore to certify that the requirements of *The Act respecting the Solemnization of Marriages* have been complied with.

Given under my hand and seal at this day of _____ in the year of our Lord 18 __, and in the year of Her Majesty's reign.

G. H.,

Issuer (or Deputy Issuer) of Licenses.

Issued from the office of the Provincial Secretary for the Province of Ontario, this day of 18 __.

K. L.,

Provincial Secretary.

R. S. O. 1877, c. 124, Sched. A.

SCHEDULE B.

(Section 3.)

FORM OF CERTIFICATE FOR MARRIAGE WITHOUT BANNS WHERE NEITHER OF THE PARTIES HAS RESIDED FOR 15 DAYS NEXT PRECEDING IN THE COUNTY.

THESE are to certify that A. B. of _____ and C. D. of _____ being minded, as it is said, to enter into the contract of marriage, and being desirous of having the same duly solemnized, the said A. B. (*or C. D.*) has made oath that he (*or she*) believes that there is no affinity, consanguinity, precontract, or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage, and having also otherwise made oath as required by law. These are therefore to certify that the requirements of *The Act respecting the solemnization of Marriages* have been complied with.

Given under my hand and seal at, etc. (*as in preceding form*).

G. H.,

Issuer (or Deputy Issuer) of Licenses.

Issued, etc.

K. L.,

Provincial Secretary.

R. S. O. 1877, c. 124, Sched. B.

SCHEDULE C.

(Section 11).

FORM OF AFFIDAVIT.

I, A. B. (*or C. D.*) of _____ Bachelor (*or widower, or spinster or widow*).
make oath and say as follows :
1. I, and C. D. of _____ Spinster (*or widow, or bachelor or widower*).

are desirous of entering into the contract of marriage, and of having our marriage duly solemnized at the town (*or village, etc.*) of _____ in the county (*or district*) of _____

2. According to the best of my knowledge and belief, there is no affinity, consanguinity, precontract, or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

[3. I, or the said C. D. (or both, as the case may be) have (or has) had since the day of my (or his, or her, or our) usual place of abode within the municipality of in the said county (or district). (Or if neither of the parties has, for the space of 15 days immediately preceding the issue of the certificate or license, had his or her usual place of abode in the county or district in which it is intended that the marriage shall be solemnized; The reason of procuring the marriage to be solemnized in is not in order to evade due publicity, or for any other improper purpose.)]

4. I am of the age of years, and the said C.D. is over the age of 21 years.

5. (In case of one or both of the parties being under the age of 21 years) I am a { widower } or the said C. D. (or A. B. is a { widow }
 { widow }
 [Or E. F. of is the person whose consent to said marriage is required by law, and the said E. F. consents to the said marriage.]

[Or The father of the said (party under age) is dead, no guardian of the person of the said (party under age) has been appointed, and the mother of the said (party under age) is dead (or married), and there is no person having authority to give consent to said marriage (as the case may be.)]

Sworn before me, etc.

G. H. }

(Signed) A. B.
 or C. D.

(Issuer of Licenses, or
 Deputy Issuer of Licenses.)

R. S. O. 1887, c. 124, Sched. C.

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